

**BOARD OF ENVIRONMENTAL REVIEW
May 23, 2022, 9:00 AM
SPECIAL MEETING
DEQ ZOOM CONFERENCE**

NOTE: Board members, the Board attorney, and secretary will be participating electronically. Interested persons, members of the public, and the media are welcome to attend via Zoom or telephonically. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this meeting. Please contact the Board Secretary by e-mail at deqbersecretary@mt.gov, no less than 24 hours prior to the meeting to advise her of the nature of the accommodation needed.

9:00 AM

1. An appeal in the matter of amendment application AM3, Signal Peak Energy LLC's Bull Mountain Coal Mine #1 Permit No. C1993017, BER 2016-07 SM.

On August 18-21, 2020, the parties participated in a contested case hearing. The parties filed their Proposed Findings of Fact and Conclusions of Law on December 18, 2020. As of March 31, 2021, hearing officer Caitlin Buzzas took responsibility for this matter. On May 27, 2021, Signal Peak filed a Motion for the Board to Reclaim Jurisdiction. Ms. Buzzas denied the Motion on July 30, 2021. She issued proposed findings of fact and conclusions of law on July 30, 2021. The proposed findings of fact and conclusions of law were provided to the Board for action at its August 13, 2021, meeting thereby placing responsibility on the Board to render a final decision after exceptions were filed. The parties filed their exceptions and responses to exceptions. On October 25, 2021, DEQ filed a Motion for Clarification and Request for Stay of Oral Argument pending Appearance of successor counsel. On November 11, 2021, MEIC responded to DEQ's Motion and stated it does not oppose DEQ's request to set the date for oral argument on exceptions before the Board at the first regularly scheduled 2022 Board meeting. The Board, under Chair Ruffatto's signature, issued an Order dated November 23, 2021, stating that oral argument on the exceptions and responses to exceptions would be held at the first regularly scheduled Board meeting of 2022. On December 23, 2021, DEQ filed a Motion for and Brief in Support of Stay Pending Appeal of the AM4 Decision to the Montana Supreme Court with a supporting Affidavit of Travis Dunkle. On January 3, 2022, Chairman Ruffatto issued an Order Setting Oral Argument on DEQ's stay motion for February 25, 2022. On January 6, 2022, Jeremiah Langston filed a Notice of Appearance of Counsel on behalf of DEQ. Petitioners filed a Response to DEQ's Motion for Indefinite Stay on January 10, 2022. On January 20, 2022, DEQ filed its Reply Brief in Support of Motion for Stay. The Board heard oral argument regarding whether to grant DEQ's stay motion and denied the motion. The Board requested supplemental briefing by the parties on the binding effect of the AM4 decision. DEQ, SPE and MEIC filed their respective supplemental briefs on March 18, 2022. At the April 10, 2022, meeting, the Board heard oral argument

by the parties on the exceptions to the proposed FOFCOL (including the binding effect of the AM4 decision). The Board will continue to deliberate on the exceptions at the special board meeting May 23, 2022.

IV. ADJOURNMENT